Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Empowering Consumers to Avoid Bill Shock	)	CG Docket No. 10-207
	)	
Measures Designed to Assist U.S. Wireless Consumers to Avoid Bill Shock	)	CG Docket No. 09-158
	)	

COMMENTS OF SPRINT NEXTEL CORPORATION

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Table of Contents

Summary of Comments………………………………………………………………..…….. ii

I. Introduction………………………………………………………………………. 2

II. Regulation is Unnecessary Because the Wireless Industry has Ample Incentive To Curb "Bill Shock" and Industry is Addressing and Mitigating Wireless Overages……………………………………………………………………..……… 3

A. Wireless Customer Satisfaction is At An All Time High Demonstrating That the Market is Working Effectively and Negating the Need for Regulation………………………………………………………………… 4

B. The Nielsen Study Refutes the Argument that There Is A Systemic Bill Shock Problem………………………………………………………………. 5

C. The Record Demonstrates That Sprint and its Wireless Competitors Have Addressed Wireless Overages with A Number of Innovative and Effective Tools………………………………………………………………. 6

D. Sprint's Recent History Illustrates the Power of the Market and How Prescriptive Bill Shock Regulation Is Unnecessary…………………………. 7

III. If the Commission Proceeds with Some Form of Bill Shock Regulation It Should Begin Only with A Disclosure Requirement………………………………………… 13

IV. If the Commission Proceeds with Regulations Requiring Alerts, It Should Provide Mobile Service Providers Ample Time and Flexibility to Implement Alerts……………………………………………………………………………… 15

V. Conclusion………………………………………………………………………… 19

Summary of Comments

The Commission proposes to regulate the manner in which carriers provide usage and billing information to their customers in an effort to eliminate "bill shock." Such regulation, however, is not necessary in the fiercely competitive wireless retail market. Carriers are already well aware that "bill shock" leads to unhappy customers, increased operational expense and ultimately increased churn. Accordingly, carriers have taken steps to dramatically improve customer experience and eliminate billing surprises to the greatest extent possible. As recent consumer reports surveys have demonstrated, customer satisfaction with their wireless carriers is at an all time high.

Sprint understands the importance of customer satisfaction. After seeing its brand tarnished, Sprint devoted itself to the improvement of customer satisfaction. These efforts focused on two elements that directly address concerns around rate plans and customer overages. First, Sprint eliminated confusing rate plans and instead shifted focus to "Simply Everything" and "Any Mobile Anytime" rate plans that provide unlimited, on-network usage without overage concerns. Likewise, Sprint vastly increased its prepaid options which allow consumers to control precisely how much they spend on mobile phone service during any given period. Alerts and other regulations regarding usage disclosure would be simply inapposite to consumers with these plans. Second, for those consumers that continued to maintain metered plans, Sprint offered a wide range of tools, both through their devices and on the web, to manage their service and obtain usage information. Among other things, consumers can receive usage information at anytime for free on their device by pressing *4, and consumers are alerted when they log onto their account if they have overages. Moreover, consumers can review their usage data for the past year and automatically compare with other rate plans that might provide a better fit. Indeed, through its Right Plan Promise, Sprint's customers can change rate plans at anytime without incurring any fees or extending or renewing the contract. These efforts are paying off as Sprint continues to make great strides; for example, Sprint has record-high levels of customer satisfaction which has translated into reducing significantly churn and attracting new postpaid customers to Sprint. In addition, Sprint has reduced the incidence and magnitude of billing overages.

The record in this proceeding demonstrates that the competitive market is responding to consumer needs. Should the Commission move forward with regulation in this highly competitive area, however, Sprint believes the Commission should begin with the lightest regulatory approach which would be the adoption of only a disclosure requirement. The Commission could asses the effectiveness of such a regulation before determining whether it is necessary to move forward with additional regulation including adoption of alert mandates. Moreover, if the Commission adopts alert requirements at this time, the Commission should provide wireless carriers maximum flexibility to implement alerts in a manner that is appropriate for each carrier's unique customer base and pricing plans. The Commission should also recognize that many consumers will not want these alert notifications and should, accordingly, allow consumers to opt-out from receiving these alerts. Finally, carriers must be provided adequate time in which to implement these alerts.

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Consumer Information and Disclosure	)	CG Docket No. 09-158

COMMENTS OF SPRINT NEXTEL CORPORATION

Sprint Nextel Corporation ("Sprint") submits these comments in response to the Federal Communications Commission's ("FCC" or "Commission") "Bill Shock" notice of proposed rulemaking ("NPRM").[1] In its NPRM, the Commission proposes to require "mobile service providers" to provide consumers with information to avoid bill shock. The Commission has defined bill shock as "a sudden, unexpected increase in [a customer's] mobile bill from one month to the next."[2] Sprint understands the Commission's desire to protect consumers from experiencing billing surprises. Indeed, Sprint has implemented several initiatives – including alerts in appropriate circumstances – to improve transparency and customer satisfaction. Sprint does not believe that regulation in this area is warranted or required, however, given the competitive market's response to past problems with billing surprises.

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1 *See* In the Matter of Empowering Consumers to Avoid Bill Shock, *Notice of Proposed Rulemaking*, CG Docket No. 10-207, FCC 10-180 (October 14, 2010) ("NPRM").

2 *See* Federal Communications Commission Consumer and Governmental Affairs Bureau, White Paper on Bill Shock at p. 2 (October 13, 2010).

I. INTRODUCTION

As the Chief of the Consumer and Governmental Affairs Bureau has observed, helping customers to avoid bill shock is "good business for wireless carriers."[3] Sprint agrees wholeheartedly and that is precisely why Sprint and many other mobile service providers have taken steps to mitigate bill shock. Regulation is generally unnecessary in a highly competitive market and it is especially unnecessary when the market has demonstrated that it is responding to the perceived market failure. The record in this proceeding is replete with examples of ways in which the wireless industry has responded to consumer concerns with billing issues. It also confirms that "bill shock" as defined by the Commission is not a pervasive problem.

If, however, the Commission decides to move forward with regulation, Sprint believes it should employ a light regulatory touch by adopting *only* the proposed disclosure requirement. This minimally invasive approach is appropriate for the issue at hand as a disclosure requirement will help inform customers how to avoid bill shock. Such a requirement may even generate additional competition in this space. The Commission should then assess the impact of this disclosure requirement before determining whether additional regulatory action is necessary.

With regard to the Commission's proposed alerts, Sprint – like many wireless carriers – already provides various alerts to consumers and intends to expand its alert program to cover more usage scenarios. As such, Sprint does not believe that alert requirements are warranted. If, however, the Commission goes down this regulatory path, Sprint implores the Commission to provide carriers with maximum flexibility – and ample time – to implement specific government mandated alerts. Mobile service providers must have the discretion to provide alerts in the most

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[3] *See* FCC News, *FCC Bureau Launches Initiative to Help Consumers Avoid "Bill Shock"* (May 11, 2010).

efficient and effective manner taking into account each carrier's customer base, unique billing systems, and variety of pricing plans.

II. REGULATION IS UNNECESSARY BECAUSE THE WIRELESS INDUSTRY HAS AMPLE INCENTIVE TO CURB "BILL SHOCK" AND INDUSTRY IS ADDRESSING AND MITIGATING WIRELESS OVERAGES

In the highly competitive retail wireless market, mobile service providers have ample incentive to ensure that consumers are satisfied with their wireless service. If a carrier succeeds in satisfying the customer, the carrier can expect a loyal customer for years to come. If, however, a carrier fails and the customer is dissatisfied, that customer will churn. Churn is anathema to carriers because it means the loss of a reliable revenue stream from the churning customer and the need to expend significant sums to attract a new customer (*i.e.,* additional customer acquisition costs). Mobile service providers, therefore, compete vigorously to provide the highest level of customer satisfaction ("CSAT") in order to prevent churn. Carriers also understand that a high CSAT rating improves brand image and helps attract new customers.

With regard to the present "bill shock" docket, carriers compete against other carriers (and strive internally) to ensure that consumers do not have surprises on their bills for voice, text, and data overages. Sprint understands these are clearly not good surprises. In addition to upsetting customers, these billing overages increase operational expenses such as customer care call volumes and average call handle times. Most importantly, such billing surprises decrease CSAT. As such, carriers have every incentive to mitigate such billing surprises.

A. WIRELESS CUSTOMER SATISFACTION IS AT AN ALL TIME HIGH DEMONSTRATING THAT THE MARKET IS WORKING EFFECTIVELY AND NEGATING THE NEED FOR REGULATION

Government and unbiased third-party studies confirm that American consumers are satisfied with their wireless services. The maturing wireless industry is performing well; indeed, wireless customer satisfaction continues to improve and is at an all-time high. As demonstrated in CTIA's filing in response to the Commission's Bill Shock Public Notice:

- The Commission's own data confirmed that 92% of American wireless consumers are satisfied with their wireless service;
- A Government Accountability Office ("GAO") report found that the wireless industry is responsive to a variety of consumer concerns including changing early termination policies from a fixed basis to a prorated basis; and,
- American Consumer Satisfaction Index ("ACSI") information shows that the wireless industry set an all-time high for the second consecutive year and has been rising since 2005.[4]

The wireless industry is performing well and as expected for a highly competitive market. The Commission cannot ensure perfection and a 100% consumer satisfaction rating – these are simply unachievable *in any market*. As such, Sprint maintains that Commission action is unnecessary because consumers are overwhelmingly satisfied with their wireless services, and there is no market failure.

[4] *Comments of CTIA,* CG Docket No. 09-158 at p. 14 (July 6, 2010).

B. THE NIELSEN STUDY REFUTES THE ARGUMENT THAT THERE IS A SYSTEMIC BILL SHOCK PROBLEM

The Nielsen Company ("Nielsen") filed recently the results of its examination of over 65,000 wireless bills. Nielsen's analysis of these wireless bills provides several data points that dispel the existence of a systemic "bill shock" problem:

- About 1% of Americans experience significant overages in any given year, similar to their regular bill.
- Bill shock does not occur when a customer periodically or even regularly goes into overage and it de facto becomes part of their recurring payment.
- Consumers who regularly or periodically go into overage are unlikely to be surprised by their overages regardless of the amount of overages. The distribution of overages is stable to increasing for both voice and data overages, indicating that these consumers make a conscious choice.
- The typical consumer who accidentally goes into overage pays $18 to $21 for voice overages and $2 to $4 for data overages, while generally enjoying the lowest rates for voice and data in the industrialized world.
- People who incur overages receive larger credits than those who never go into overage.
- People who go into data or voice overage receive approximately the same amount as credit.[5]

The Nielsen analysis deserves careful consideration by the Commission. It is based on objective, real-world data as opposed to a subjective consumer survey. The points above demon-

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[5] *See, Nielsen Comments*, Customer Value Metrics: A Closer Look at Overages, CG Dockets No. 10-207 and 09-158 (Dec. 9, 2010).

strate that there is no systemic "bill shock" problem let alone a market failure. Indeed, Nielsen's study echoes Sprint's experience that the prevalence of bill shock is small and manageable. Additionally, based on the last two bullets above, it is clear that the wireless industry takes measures to work with consumers to mitigate overages. This belies any thought that wireless carriers wish to gouge customers. Quite the opposite, it underscores that, in the highly competitive wireless retail market, carriers strive to maintain a high level of customer satisfaction by providing credits for legitimate voice or data overages.

C. THE RECORD DEMONSTRATES THAT SPRINT AND ITS WIRELESS COMPETITORS HAVE ADDRESSED WIRELESS OVERAGES WITH A NUMBER OF INNOVATIVE AND EFFECTIVE TOOLS

The record in this proceeding is replete with examples of ways in which the wireless industry has provided consumers with information and account management tools through which to avoid overages.[6] To name a few – carriers have implemented text alerts, courtesy calls, free applications ("apps") for smartphones, spending limits, cut-off mechanisms, dialing short cuts, plan optimizers, website usage tracking, handset-based minute and data trackers, parental controls, prepaid plans, mobile broadband re-direct alerts, *et cetera*. Mobile service providers, including Sprint, have also begun to utilize social media including Facebook and Google to provide ready-access to account usage information.

The richness and variety of approaches illustrates the upwelling of creativity and innovation that can only come through robust competition. It bears repeating that, given the highly competitive retail market, wireless carriers have ample incentive to provide consumers with

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[6] *See e.g., Comments of Sprint Nextel Corporation, Comments of CTIA – The Wireless Association, Comments of Verizon Wireless, Comments of AT&T, Inc., Comments of T-Mobile USA, Inc, Comments of U.S. Cellular*, CG Docket No. 09-158 (filed July 6, 2010).

these tools in order to ensure the highest level of customer satisfaction. These are, indeed, "good business" practices and demonstrate clearly that the market is functioning properly.

D. SPRINT'S RECENT HISTORY ILLUSTRATES THE POWER OF THE MARKET AND HOW PRESCRIPTIVE BILL SHOCK REGULATION IS UNNECESSARY

Sprint has previously described some of the efforts it has undertaken to provide its customers with information and tools to better manage accounts and prevent overages.[7] Instead of reiterating these efforts, Sprint believes its recent history will provide the Commission with a better insight into how Sprint came to implement these consumer-friendly initiatives. Sprint's story reflects how a well-functioning, robustly competitive market can both punish and reward carriers depending on how well customers are treated.

Sprint has acknowledged that, following its merger with Nextel, the company took it's "eye off the ball" and was not executing well on a number of fronts. Customers complained that doing business with Sprint had become complicated, confusing, and too often frustrating. These missteps resulted in a downward trend for Sprint's CSAT ratings. Not surprisingly, Sprint's brand suffered; churn increased; and, Sprint was losing customers.

Under the leadership of Sprint's CEO Dan Hesse, Sprint began to right the ship by first devoting itself to improving customer satisfaction. Sprint set out to simplify the business – to make it easier to do business with Sprint – through a number of customer friendly initiatives. And, as described in more detail below, the results of Sprint's efforts have been significant. Sprint has improved CSAT for ten consecutive quarters, reduced churn, increased postpaid adds, and Sprint reduced the incidence and magnitude of wireless overages.

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[7] *See, Sprint Nextel Corporation Comments*, CG Docket No. 09-158 (July 6, 2010). *See also,* In The Matter of The State of Mobile Wireless Competition, *Sprint Nextel Corporation Comments*, WT Docket No. 10-133 (July 30, 2010).

1. Sprint's Simple Postpaid and Prepaid Plans Reduce/Eliminate Overages and Improve CSAT

One of Sprint's boldest post-merger initiatives launched under Mr. Hesse was the "Simply Everything" plan. This game-changing pricing plan was designed to take the worry out of using Sprint's network – to turn the meter off by providing unlimited talk, text and data. Sprint has subsequently launched different flavors of these "Everything" plans to suit customers according to their particular wireless usage patterns (*e.g.,* "Everything Data," "Everything Messaging," and, more recently, "Any Mobile Anytime" which provides subscribers unlimited mobile-to-mobile minutes regardless of wireless network/carrier).[8]

Sprint also dove headfirst into the prepaid wireless market recognizing that, in a difficult economy, wireless consumers strongly desire simple pricing plans without the concern of incurring overage fees. Prepaid pricing has proved wildly popular, and Sprint has diversified its prepaid brands with Virgin Mobile, Boost Mobile, Assurance Wireless, Common Cents Mobile and Broadband2Go. In short, while the term "bill shock" may not have been used at the time, Sprint's "Everything" postpaid plans and the bevy of prepaid brands and plans were designed around simplicity and value, and, as a corollary, they reduced the likelihood of wireless overages.

2. Sprint's Customer-Friendly Policies Are Designed to Improve CSAT and Provide Flexibility

Sprint adopted some of the industry's most lenient and flexible customer policies – all of which are designed to improve CSAT by making doing business with Sprint easy.

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[8] As another indication of Sprint's pro-consumer policies intended to improve CSAT, Sprint applied Any Mobile Anytime to all existing accounts.

- Sprint implemented its Sprint Free Guarantee which allows customers to try Sprint service for free for the first 30-days without incurring any early termination fee ("ETF") or usage fees including restocking fees (aside from premium and international charges and associated surcharges taxes).
- Sprint changed its ETF policies from a fixed fee to a prorated fee.
- Sprint introduced an online Sprint Plan Optimizer ("SPO") tool so a customer can assess, based on past usage, whether the customer is on the right plan.[9] This tool provides customers with a transparent view into their voice, text and data usage, and SPO will suggest alternative plans that may better suit the customer. SPO is intended to build trust with Sprint while simultaneously helping customers make educated and informed decisions about their plans.
- Sprint's Right Plan Promise allows customers to change their plan at any time – without extending the contract and without paying any Early Termination Fees or other fees.
- With its Ready Now program, a Sprint retail associate works with customers, one-on-one, to personalize their phone, set up its features, and show them how to use it – before they leave the store.

Each of these customer-friendly initiatives was designed to improve CSAT and to change Sprint's image from a complicated, confusing company to one with which it is easy to do business. And, again, these programs have the indirect effect of reducing "bill shock." The one-two punch of SPO coupled with Right Plan Promise is a perfect example of how a customer can track

[9] *See* http://www.sprint.com/landings/spo/?ECID=vanity:planfit (visited July 22, 2010).

usage, determine if there is a better plan, and switch to that plan without jumping through hoops and without incurring any penalties or fees.

3. Sprint Provides a Number of Tools and Information, Including Alerts, to Help Customers Track Usage and Avoid Overages

For those customers who are not on the "Simply Everything" plan or choose not to take advantage of a myriad of prepaid plans (*i.e.,* for those consumers that have some form of a metered plan), Sprint offers a wide range of tools, both through mobile devices and on the web, to manage their service and obtain usage information.

- ***4 Usage Status** – at any time, customers may dial *4 from their handsets to get an automated tally of the voice minutes, text messages, and data used to date. In addition, customers are asked if they would like Sprint to send a text message summarizing their usage information.
- **Sprint.com Alerts** – through customer "My Sprint" on-line accounts, Sprint provides notifications and alerts concerning customers' voice minutes, text message, and data usage. These alerts appear prominently upon customer login.
- **Mobile Broadband Connection Plan Usage Status** – provides mobile broadband customers with email or text alerts when they reach 75% and 90% of their data caps.
- **International Roaming** –Sprint sends a "welcome message" when a subscriber first registers in a foreign country. It's a text message that includes default rates for voice, texts and data.
- **Mobile Broadband Re-Direct Alerts** – Sprint has implemented re-direct alerts warning mobile broadband data card users of their data consumption. The user

will receive the re-direct on their computer as they use Sprint's Smartview software to connect to the Internet and must opt-in to continue.

- **International notifications/suspend service on Mobile Broadband & Handsets** – Sprint sends emails or text message notification based on dollar amount incurred ($50/$250/ $500/$1000/ +$250 intervals) as well as a notification at $1,000 that international roaming is suspended until next bill cycle or a call to Sprint's international care center.
- **Parental Controls** – Sprint also offers (at no charge) a variety of parental controls that are effective in preventing account holders from incurring unwanted charges.
- **Facebook and iGoogle widgets** – Sprint has also created "My Sprint" widgets that can be downloaded to Facebook and iGoogle. Once installed, these widgets allow Sprint customers to access My Sprint and view usage, billing information, pay bills, two-way text message, view call logs, etc.
- **Future Market Differentiators –** Sprint also continues to seek means of differentiating itself in the market. Sprint intends to widen and deepen its portfolio of customer account management tools by providing end users even more robust controls and extending alerts to voice and text messaging.

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While not targeting "bill shock" per se, the Sprint initiatives described above – from straightforward, unmetered pricing plans to Facebook widgets – have collectively resulted in a steady and ongoing reduction in the number of customers experiencing wireless overages as well as a reduction in the magnitude of such overages. These initiatives empower customers to manage their accounts not just to avoid wireless overages, but also to ensure that customers are receiving the best value for their wireless needs and budgets. There is no question that these initiatives make good business sense. Indeed, they are essential in the highly competitive wireless retail market to sustain and improve CSAT. Importantly, Sprint has taken these steps absent regulation.

4. Sprint's Initiatives Have Greatly Improved CSAT and Sprint is Being Rewarded in the Market

Sprint's customer-focused initiatives are paying dividends both in terms of dramatically improving CSAT, but more importantly Sprint has stemmed the tide of customer loss and reduced its churn level. Sprint received the Gartner and 1to1 Media CRM Excellence Award as one of five gold medal winners for an organization that uses customer-focused strategies to improve their business performance.[10] J.D. Power & Associates Wireless Business Satisfaction Survey recognized Sprint as the only carrier to see its scores improve in the small/mid size business category in each of the 2008, 2009, and 2010 surveys. And, according to an article concerning the recently released Consumer Reports member survey of wireless carriers:

> [ ] Sprint Nextel (S, Fortune 500) made a startling leap forward with a rating of 73, which is six points higher than the previous year. It even surpassed Verizon in some aspects of customer service, which *Consumer Reports* called "a remarkable turnaround," considering that was a weak point for the network in years past. Sprint was ranked last in the survey as recently as two years ago. Sprint easily leapfrogged T-Mobile, after that carrier's satisfaction score fell by one point.[11]

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[10] *See* http://www.1to1media.com/View.aspx?ItemID=30794

[11] See, David Goldman, *'AT&T Is Now the Worst Carrier' – Consumer Reports*, CNNMoney.com (Dec. , 2010), available at http://money.cnn.com/2010/12/06/technology/consumer_reports_att/index.htm

These accolades are translating into success where it matters most, with Sprint customers and in the wireless market more generally. As succinctly stated by Sprint's CEO Dan Hesse in addressing Sprint's 3rd Quarter 2010 results:

> Driven by record customer satisfaction, and the performance of iconic devices like the EVO and Epic, Sprint's momentum continued this quarter. The Sprint brand gained postpaid customers for the fourth consecutive quarter as, for the second consecutive quarter based on porting data, more customers switched to Sprint from our competitors than switched from Sprint to our competitors. In addition, our last two quarters have been all-time bests for postpaid churn. We also saw improvement sequentially in prepaid net adds and our lowest prepaid churn in almost five years.[12]

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Sprint maintains that government intervention is unnecessary in a highly competitive market and where there is no market failure. Regulation is especially unnecessary where the record is replete with examples of Sprint and other carriers' innovative efforts to improve CSAT and reduce the incidence and magnitude of wireless overages.

III. IF THE COMMISSION PROCEEDS WITH SOME FORM OF BILL SHOCK REGULATION IT SHOULD BEGIN ONLY WITH A DISCLOSURE REQUIREMENT

As stated above, Sprint does not believe that Commission intervention is necessary to address the perceived "bill shock" problem. If, however, the Commission moves forward with regulation, Sprint urges the Commission to take the lightest regulatory approach and begin only with the adoption of the proposed disclosure requirement. Such a measured and restrained approach is commensurate with an issue that affects such a small percentage of wireless consumers. After a period of a year or two, the Commission could assess the effectiveness of such a dis-

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12 *See,* Sprint News Release, *Sprint Nextel Reports Third Quarter 2010 Results*, available at http://newsroom.sprint.com/article_display.cfm?article_id=1702

closure requirement before determining whether it is necessary to move forward with additional regulation.

Sprint agrees that carrier transparency or disclosure and informed consumers are important to a well-functioning market. Sprint does not believe, however, that the Commission needs to further define the disclosure requirement. For example, the Commission seeks comment on whether "mobile service providers should be required to provide this [disclosure] information on their bills or in annual inserts."[13] Mobile service providers should have the flexibility to determine the best way in which to inform its customer base about tools or services designed to prevent wireless overages. Some customers may prefer annual inserts, others may prefer a bill message – still others may wish to receive an email or have access to such information on the provider's web site or even via Facebook or Twitter. It would be a mistake to mandate a one-size fits all approach to this disclosure requirement. A hard and fast rule cannot anticipate future modes of communication that may be preferable to some consumers.

For these reasons, the Commission should consider adopting an approach similar to the one it took recently in the Open Internet proceeding where it declined to adopt a specific format for disclosure. Instead, the Commission provided carriers with "flexibility to determine what information to disclose and how to disclose it."[14] Furthermore, the Commission determined that carriers could utilize a website to satisfy their disclosure requirements. Sprint believes such website disclosure should satisfy a "bill shock" disclosure/transparency requirement. Websites are an ideal format as they provide the most efficient and effective means of disclosing information. Websites have the space to display all relevant information – especially in comparison to

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13 *NPRM* at p. 14.

14 *See,* In the Matter of Preserving the Open Internet, *Report and Order*, GN Docket No. 09-191, at ¶ 59 (Dec. 23, 2010).

the space limitations of a bill message – and they can be updated quickly to reflect new information such as new alert programs or other consumer-friendly information to help curb billing surprises.

Finally, Sprint suggested in earlier comments that the Commission could conduct a workshop with industry before considering adoption of any new rules.[15] Sprint believes such a workshop may still have validity (even with a disclosure mandate) as it would provide a forum for dialogue between the Commission, consumers, and industry. It could foster ideas on how to improve the flow of information and perhaps lead to the development of industry best practices for the disclosure of carrier information related to mitigating wireless overages. The Commission itself may consider acting as a clearinghouse for this carrier-specific information.

IV. IF THE COMMISSION PROCEEDS WITH REGULATIONS REQUIRING ALERTS, IT SHOULD PROVIDE MOBILE SERVICE PROVIDERS AMPLE TIME AND FLEXIBILITY TO IMPLEMENT ALERTS

Should the Commission mandate all aspects of the proposed rules including the alert requirements contained in subsections (c)(1)-(3), Sprint implores the Commission to provide mobile service providers maximum flexibility to implement such alerts in a way that makes most sense for the carrier given its unique customer base and pricing plans. And, considering the complexity of the endeavor and its impact on carrier billing systems, the Commission should provide a minimum of eighteen (18) months to implement any mandate

While Sprint has implemented some types of alerts consistent with the proposed rules, the Commission's rules would require Sprint to greatly expand its alert program impacting a large portion of its customer base. And while Sprint has made efforts to simplify its pricing structure,

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[15] *Comments of Sprint Nextel Corporation,* CG Docket No. 09-158 at p. 18 (filed July 6, 2010).

thousands of grandfathered pricing plans continue in effect. Sprint estimates it would need to write code for over 10,000 billing codes. Needless to say, this would be a time consuming and costly undertaking. Given this complexity and its impact on billing systems, Sprint believes the Commission should apply any mandated alert requirements on a going-forward basis. This would greatly reduce the complexity and cost of an unanticipated regulatory requirement ultimately reducing the costs borne by each carrier's customer base. For example, by requiring such an alert program on a going-forward basis only, mobile service providers would not be required to write code for older, grandfathered pricing plans – many of which have few subscribers due the attrition caused by less expensive and/or more valuable pricing plans.

Furthermore, the Commission should exempt corporate liable or business accounts from such regulation. The consumer protection-based regulation should apply only to consumer accounts (*i.e.,* individual liable accounts) – not to business accounts. Business accounts often have dozens if not hundreds or thousands of users with complex billing arrangements typically managed by a telecom account specialist. Moreover, Sprint and its competitors offer business accounts sophisticated account management tools. As such, "bill shock" protections are unnecessary in this context and, again, application to business accounts would greatly increase the complexity and cost of compliance without any benefit.

The Commission seeks comment on a variety of other issues concerning an alert program to which Sprint provides the following responses:

- **Most effective alert method** – The Commission should not mandate a specific method of alerts. The mobile service provider should have the discretion to provide alerts in the most effective manner considering its customer base. This may mean a text message alert, an email, a voicemail, a Facebook message, instant message, etc.

- **Customer opt-out** – customers who do not wish to receive alerts should be able to opt-out of the mandatory alert program. As reflected in the Nielsen data discussed above, there are many consumers that regularly incur overages on a conscious basis and will not wish to be interrupted with repeated reminders.
- **Prepaid, Account Spending Limit ("ASL") and Unlimited Plans** – Prepaid and ASL should be exempt from any mandatory alert program. Where there is no danger of an overage, an alert would be meaningless to the customer. Moreover, at least from Sprint's perspective, prepaid and ASL customers receive ample warnings (typically via free text messages) that they are approaching their usage or prepaid limits.
- **Timing --** The Commission should allow carriers flexibility to determine whether or not to send the (c)(1) alert as a consumer approaches their allotted limit for voice, text or data usage based upon the billing cycle. If, for example, the customer approaches the 75% threshold on the 29^{th} day of a billing cycle, the carrier should have the discretion to determine whether to send the "approach" alert.
- **Shared Minute Plans and Pooled Plans** – When usage allotments are shared among multiple lines (*e.g.,* family plans) or pooled, it would be difficult if not impossible to provide meaningful alerts to individual users. As such, Sprint has designed its current alerts to be sent to the account level – not to the individual subscriber level.
- **Real Time Usage Alerts** – The ability to send real time usage alerts depends on whether the usage occurs on-network or off-network. For on-network usage, Sprint can monitor and report usage on a near real time basis. For off-network usage, there is often some delay or latency in receiving information. And, there is much variance in the amount of

time it takes to receives off-network information depending on the carrier reporting the usage.

- **Single or multiple alerts warning customers as they approach usage allotments** – Sprint believes that the carrier should have the discretion to determine when to send the warning alert and whether to send multiple alerts. Depending on the circumstances a carrier may wish to send multiple alerts or just one alert and the carrier may wish to send these alerts at different usage thresholds. For example, to prevent high dollar charges for international or data roaming, a carrier may wish to employ multiple alerts at various thresholds (*e.g.,* first at 75%, second at 95%); whereas, a single alert for low dollar things like text messaging may make sense (*e.g.,* first and only alert at the 95% level).
- **Should the Commission adopt a cut-off or opt-in mechanism** – Under no circumstances should the Commission require carriers to cut off service to consumers or require an opt-in to continue service. Such mechanisms simply create prepaid services for everyone using metered service. Postpaid customers would undoubtedly find such cut-off/opt-in mechanisms an annoyance – if not insulting. The cost of fielding customer care calls would be astronomical and would increase rates for all consumers. Again, this should be within the carrier's discretion and may make sense for certain usages such as international and data roaming, but it should not be required.
- **Should the notification convey specific information including the exact costs consumer will pay once they exceed their monthly allotment** – Sprint does not believe the Commission should adopt such a requirement. Depending on the mode of alert, it may be impossible to provide enough information within, for example, a 160 character text message. Furthermore, this would add yet another layer of complexity on top of an already

burdensome regulatory requirement. There are so many variances of pricing plans on an individual subscriber level that this regulatory requirement would make it technically and financially infeasible to provide this degree of specificity. It would be difficult to code to this level, let alone formulate a meaningful message to the consumer. Indeed, receipt of such a message would likely result in an expensive call to customer care. Carriers should be given broad discretion to determine the contents of any such alerts.

V. CONCLUSION

For the foregoing reasons, Sprint respectfully urges the Commission to carefully consider the record in this proceeding once more before determining whether regulation is truly necessary to address the perceived "bill shock" problem. Sprint maintains that carriers have every incentive in this highly competitive market to ensure consumers do not experience unwelcome billing surprises. Further, the record is replete with examples of innovative approaches to mitigating the likelihood of such overages. In short, Sprint maintains that the market is functioning properly – there is no market failure.

If the Commission disagrees, then Sprint suggests the Commission adopt only a disclosure requirement and then reassess its effectiveness before moving forward with a mandatory alert program. Finally, should the Commission adopt the rules as proposed including an alert program, Sprint urges the Commission to provide mobile service providers with ample flexibility and time to implement the alerts.

Respectfully submitted,

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